IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 420 of 2004 (S/S)

Sidh Nath Mishra S/o Sri Praduman Mishra
R/o Gangapur Kiteha Udham Singh Nagar
Working as Mate in P.W. D. , Rudarpur … Petitioner

Versus

The Executive Engineer P.W. D. Rudrapur
District Udham Singh Nagar & others. … Respondents

Hon'ble Rajesh Tandon, J.

Heard learned counsel for the petitioner Sri S.S. Yadav and Sri Nand Prasad learned Standing Counsel. Both the parties have agreed that the writ petition is disposed of at the admission stage.

By the present writ petition the petitioner has prayed for the issue of a writ order or direction in the nature of mandamus directing the respondent no. 2 and 3 to give the arrears due to the petitioner as permissible under the law and as per the settlement (Annex-2) to the writ petition.

Brief facts of the case are that the petitioner was working charge mate and he has initiated the proceedings before Conciliation Officer, Rudrapur District Udham Singh Nagar on 20.08.1999. The counsel for the petitioner has submitted that the settlement was made between the parties that the respondent will treat the petitioner as Work Charge employee since 20.08.1999, but the petitioner was getting consolidated salary of Rs. 3600/- per month since 20.08.2001, the respondent no. 2 has not given the arrears of salary since 20.08.1999 to 20.08.2001 to the petitioner. Learned counsel for the petitioner has referred the settlement dated 16.09.1999. The reference of the same is quoted below:-

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v/;{k ihOMCyOMh0 fu;fer odpkt depkjh lªk u e[; vfHk;Urk ykd fuekZ.k y[kuÅ rFkk vf/k'kkIh vfHk;Urk ikUrh; [k.M :nªij m/e flg uxj d fo:} Jh fl}ukFk feJk dk xV in ij fu;fer u fd;s tkus d vkjki dk ydj fookn djk;k tk;A fookn dk 3@99 dk dekfdr fd;k x;k i{kksa dk lIk/ku lfefr

d; fuek.k fd;; tkus gsrq ifrfuf/kRo fd;k x;k rnuqlkj lqlaxr lfefr dk xBu fd;k x;k i{kksa d; e/; okrkZ d; mijkUr fuEu izdkj le>kSrk gqvkA

1 lqizk;kstd i{k }kjk lgefr nh x;h fd mudk Lkkhiu esa nfud osruHkksxh deZpkjh d; :Ik esa fu;qDr deZpkjh Jh fl}kukFk feJk dk 10 o"kZ dh lurks"k tud lqizk izk.k dj fy, tkus d; vk/kkj ij dk;Zr izHkkfor@ ekfld esa fnukd 20@8@99 lss fy, tkus d; vkn'k nsfn, x;s gSA

2 Jfed i{k }kjk lgefr nh x;h fd lqizk;kstdk }kjk fookn lss lEcf/kr Jfed Jh fl}kukFk feJk dk dk;Zr izHkkfjr ekfld osru ij mDr vkn'k d; vuqlkj dk;Zr ij fy, tkus esa dkbZ vkifRr ugh gS rFkk mudk }kjk fnukd 20@8@99 dk dk;Zr Hkkj xg.k dj fy;k x;k gSA

MDr le>kSrs d; vk/kkj ij ;fu;u }kjk Jh fl}kukFk feJk dk fnukd 1@3@99 lss eVd d; in ij fu;fer fd;s tkus dh ekx rFkk iLrqr fd;s x;s fookn dk fuLrkj.k gks tkrk gSA"

The petitioner has submitted that he was permitted to work as work charge mate since 02.08.2001. In this regard, the respondent no. 2 has passed an order on 10.08.2001. The petitioner has also referred the letter-dated 04.11.2003 by which the respondents have directed to pay the petitioner in accordance with the fifth Pay Commission, as the petitioner has already been absorbed as a Work Charge employee since 20.08.1999. The petitioner has made several representation but of no avail.

Counsel for the petitioner has confined himself for the disposal of the representation. In view of the above facts and circumstances, the respondents are directed to decide the representation of the petitioner (Annexure 5 to the writ petition) within a period of six weeks from the filing of the certified copy of the order.

Subject to the aforesaid observations, the writ petition is disposed of accordingly.

Sd/-

24.04.2004
ASWAL